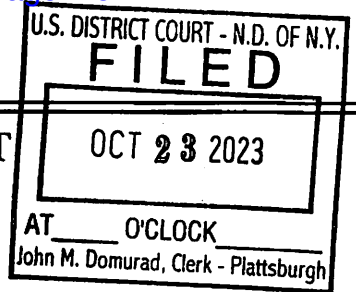


AO 91 (Rev. 11/11) Criminal Complaint



UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA

v.

Jose CHOLULA-Trujillo,

Defendant.

Case No. 8:23-MJ-605 (GLF)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of October 20, 2023 in the county of Franklin in the Northern District of New York the defendant violated:

Code Section

8 U.S.C. § 1324(a)(1)(A)(ii)

Offense Description

The Defendant, knowingly and in reckless disregard of the fact that aliens have come to, entered, or remained in the United States in violation of law, did transport, move and attempt to transport and move, such aliens within the United States by means of transportation or otherwise in furtherance of such violation of law.

8 U.S.C. § 1326(a)

The Defendant, an alien, a native and citizen of Mexico, being an alien who has been denied admission, excluded, deported, or removed, or has departed the United States while an order of exclusion, deportation, or removal is outstanding, entered and was thereafter found in the United States without the Attorney General of the United States, or his successor, the Secretary of Homeland Security, having expressly consented to his reapplication for admission into the United States.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

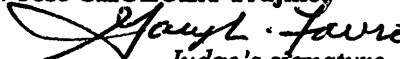
U.S. Border Patrol Agent Adam M. Matott

Printed name and title

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: Oct. 23, 2023

Continuation Sheet, United States v. Jose CHOLULA-Trujillo,


Judge's signature

City and State: Plattsburgh, New York

Hon. Gary L. Favro, U.S. Magistrate Judge

Printed name and title

This criminal complaint is based on the following facts:

Continuation Sheet, United States v. Jose CHOLULA-Trujillo.

On October 19, 2023, at approximately 10:15 p.m., Burke Border Patrol Agents (BPAs) encountered a black Dodge Durango bearing New Jersey license plates G18RSX, traveling westbound on Franklin County Route 24 towards Malone, NY. BPAs decided to follow the vehicle because out-of-state registered vehicles are commonly encountered in smuggling attempts. This is because the drivers typically aren't from the immediate area. As BPAs followed the Durango, they observed it turn west onto US Highway 11 (US 11) and proceed into Malone, NY. Once in Malone, the Durango turned left on Brewster Street and made several loops through a residential neighborhood, before emerging back out onto US 11. BPAs found this travel pattern suspicious and decided to surveil the vehicle with an unmarked Border Patrol vehicle. At this time the Durango travelled south on Academy Street at which point BPAs lost sight of it. It was found again traveling back west on US 11 at which point it pulled into the Mo's Restaurant parking lot in Malone, NY, which was closed at this hour. After sitting parked in the front of Mo's parking lot for approximately 30 minutes, the Durango moved to the back of the restaurant and parked again. A BPA performing foot patrol was able to see inside the Durango and observed that the vehicle was occupied by two individuals. No one exited the vehicle the entire time the vehicle was parked Mo's.

At approximately 11:55 p.m., The Durango pulled out of the Mo's parking lot and traveled eastbound on US 11 and turned left on Elm Street and left again on Park Street. BPAs followed the vehicle as it continued onto NY State Route 30 in Constable, NY, at which time the agents lost sight of the vehicle. Where the BPAs lost sight of the Durango was less than five miles from the International Boundary with Canada. The vehicle was encountered again approximately 15 minutes later traveling eastbound on US 11, leaving the area. BPAs suspected that the vehicle had picked up individuals in the Burke/Constable area, near the International Boundary with Canada, which is an area commonly used for human smuggling activity. Due to the time of night, the presence of an out-of-state registered vehicle near the border, the suspicious travel pattern, and continued surveillance, BPAs performed a vehicle stop on US 11 in Churubusco, NY.

BPAs approached the vehicle, identified themselves and immediately observed a driver, front-seat passenger, and five rear-seat passengers inside the Durango. When asked his citizenship and immigration status, the driver, identified as Jose CHOLULA-Trujillo, claimed to be a Mexican citizen, with no legal right to be in the U.S. When asked their citizenship and immigration status, the six passengers claimed to be Mexican citizens with no legal right to be in the U.S. The five rear-seat passengers freely admitted to just crossing the border illegally, and stated they were just picked up from the brush.

At that time, all seven subjects were arrested, and transported to the Burke Border Patrol Station for records checks, interviews, and processing.

At the station, biographical information and fingerprints were entered into Department of Homeland Security databases for all seven subjects. Record checks confirmed information previously gathered roadside.

Further records checks revealed that CHOLULA-Trujillo has been ordered removed from the U.S. on two prior occasions. The first removal was ordered on August 10, 2011 in Los Angeles, CA. The second removal was ordered on December 22, 2014 in El Centro, CA. On both occasions, CHOLULA-Trujillo departed the U.S. and returned to his native country of Mexico.

CHOLULA-Trujillo did not obtain the express consent of the Attorney General of the United States, or his successor, the Secretary of Homeland Security, to reapply for admission to the United States.

CHOLULA-Trujillo was issued *Miranda* rights and agreed to speak to agents without a lawyer present. In his interview, CHOLULA-Trujillo stated that an unknown man asked him to pick up people, and would pay him

Continuation Sheet, United States v. Jose CHOLULA-Trujillo.

\$2,000.00 to do it. CHOLULA-Trujillo stated when he arrived at the pick-up location, the five passengers exited a field and got into the Durango. CHOLULA-Trujillo stated that he had acted as a foot guide for smuggling attempts multiple times on the southern U.S. border.

One of the rear-seat passengers, ("Subject 1") was issued *Miranda* rights and agreed to speak to agents without a lawyer present. In his interview, "Subject 1" stated that when the Durango arrived at the pick-up location, the driver flashed his headlights, to indicate for them to get in. "Subject 1" stated that when he and the other rear-seat passengers got in the Durango, the driver (CHOLULA-Trujillo) said to "Hurry and get in quick, and stay calm."